

August 29, 2005
Case No. AUS920010982US1 (9000/86)
Serial No.: 10/042,493
Filed: January 9, 2002
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-- REMARKS --

Applicant thanks Examiner Wang for his courtesies in the telephonic interview of August 23, 2005. Applicant regrets that no agreement was reached during the interview. Applicant asks that the Examiner contact their counsel for an interview based on the contents of this document prior to issuance of a final rejection if the Examiner feels that such an interview would be beneficial or advance prosecution.

A. Claims 1-17 were provisionally rejected under the judicially created doctrine of double patenting over Application 10/015,234.

The provisional double patenting rejection of claims 1-17 is traversed. Applicants note that Application 10/015,234 has issued as United States Patent 6,912,551B2 on June 28, 2005 (after mailing of this Office Action on May 26, 2005). Thus, the provisional rejection is no longer proper. Applicants will address the rejections based on the '551 patent.

Rejections of claims under the judicially created doctrine of double patenting must be made so as to prevent the unjustified or improper timewise extension of the right to exclude. Such a goal is only attained if the claims are not independent and distinct. See, e.g., MPEP §804.

Claims 1-17 are independent and distinct from claims 1-17 of the '551 patent, as the claims of the '551 patent do not include "transmission capability" as claimed in claims 1, 8, and 15 of the instant application, as well as claims 2-7, 9-14, and 16-17 depending therefrom. Even if the '551 patent dominates the instant claims, which Applicants do not concede, such a finding does support a per se double patenting rejection. These claims do not claim common subject matter, in contrast to the Examiner's argument of ¶5 of the May 26, 2005 Office Action.

Withdrawal of the double patenting rejection is requested.

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B. Claims 1-17 were rejected under 35 U.S.C. §102(e) as anticipated by Albaugh

The §102(e) rejections of claims 1-17 as anticipated by Albaugh is traversed. In order to sustain the rejection, each and every element of the claimed invention must be disclosed by the reference in at least as great detail as claimed. Since the reference does not disclose each and every element, the rejection should be withdrawn. Applicants note that they are well familiar with the disclosures of Albaugh, as they are the named inventors of Albaugh as well as the instant application.

Albaugh does not disclose receiving transmission capability from a first company and a second company and storing transmission capabilities. The Examiner's citations to ¶37 (column 4, lines 11-19 of '551) and FIG. 1 of Albaugh are misplaced. That selection discloses only:

[0037] If the initiator and target participant are identified trading partners, decision 330 branches to "Yes" branch 332 whereupon a determination is made as to whether the trading partners have a known transaction process which links, or translates, the initiator's business process to the target participant's process (decision 335). In one embodiment, the target participant's member profile includes the transaction process which links the initiator's business process and the target participant's business process.

Additionally, the citation to #125 of FIG. 1 of Albaugh is similarly misplaced, as element 125 of FIG. 1 represents a member profile. Element 125 is not disclosed as including "receiving transmission capability from a first company and a second company and storing transmission capabilities" as claimed in claim 1.

Therefore, independent claims 1, 8, and 15 are not anticipated by Albaugh, as are claims 2-7, 9-14, and 16-17 depending from claim 1, 8, or 15 respectively. Withdrawal of the rejections to claims 1-17 is requested.

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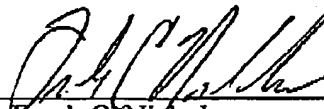
CONCLUSION

The Applicants respectfully submit that claims 1-17 fully satisfy the requirements of 35 U.S.C. §§102, 103 and 112. In view of the foregoing, favorable consideration and early passage to issue of the present application is respectfully requested.

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Respectfully submitted,
PHILIP Y. CHANG, ET. AL.

CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston, Illinois 60201
Phone: (847) 905-7111
Fax: (847) 905-7113



Frank C. Nicholas
Registration No. 33,983
Attorney for Applicants